

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: :  
Wesley H. Verkaart : Art Unit:  
Reissue of 4,759,749 : Examiner:  
Filed: July 26, 1990 :  
HEATER FOR PHYSIOLOGICAL FLUIDS :

## DECLARATION OF WESLEY H. VERKAART UNDER 37 CFR §1.175

Hon. Commissioner of Patents  
and Trademarks

SIR:

Wesley H. Verkaart hereby declares that:

1. He is the sole, original, and first inventor of the subject matter claimed in the above identified reissue application and for which a patent is sought, that his post office address and city and state of residence are as set forth below adjacent his signature, and that he is a citizen of the United States of America.
2. He has reviewed and understands the contents of the specification and claims, which are attached hereto, in said reissue application.
3. He acknowledges a duty to disclose information which is material to the examination of said reissue application in accordance with 37 CFR §1.56(a).
4. He verily believes the original patent to be wholly or partly inoperative or invalid by reason his claiming more or less than he had a right to claim.

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5. The errors arose by reason of a failure to appreciate the significance of a support structure for a heat exchanger which he designed for Haemonetics, Inc., his employer prior to employment by Level 1 Technologies, the assignee of said reissue application.

6. The errors became apparent after issuance of the original patent, serial number 4,759,749, and during discussions with Haemonetics regarding whether the support structure or the heat exchanger manufactured by Haemonetics was encompassed by any claim of said original patent.

7. As a part of these discussions, he discussed the features of the Haemonetics support structure and heat exchanger with patent counsel in detail, and it was determined that, while there was never an intention that a claim of the original patent would read on the Haemonetics apparatus, it was possible that such an interpretation could be asserted with respect to its support structure.

8. It was also determined that claim 1 of the original patent did not recite the important feature of the invention wherein the heat exchanger is received or released from the support in a single mechanical action, as opposed to the conventional quick disconnect mechanism common in the art.

9. Prior to filing the application for the original patent, he had disclosed to patent counsel the contents of the patent application filed by Haemonetics to cover the heat exchanger he had designed while employed by Haemonetics.

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10. Said patent application filed by Haemonetics does not disclose or claim the structure of the support for the heat exchanger, and he did not consider such to be important to the prosecution of the original patent at that time and did not discuss it in detail with patent counsel. The relevance of the design of the support structure became apparent only during the discussions noted above regarding the Haemonetics apparatus.

11. The errors arose without any deceptive intent.

12. All statements made herein of his own knowledge are true, that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge the willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 USC §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
Wesley H. Verkaart

Post Office Address:  
83 Enterprise Drive  
Marshfield, MA 02050

Residence:  
Duxbury, MA

Date: July 25, 1990